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SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1981

No. 81 6818

EDWARD D. CHRISTENSEN, Appellant,

v.

STATE OF UTAH, Appellees.

ON APPEAL FROM THE

SUPREME COURT OF THE STATE OF UTAH

JURISDICTIONAL STATEMENT

EDWARD D. CHRISTENSEN
Attorney Pro Se
387 North 300 East
Richfield, Utah 84701

Dated May 24, 1982

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1981

No. _____

EDWARD D. CHRISTENSEN, Appellant,

v.

STATE OF UTAH, Appellees.

ON APPEAL FROM THE

SUPREME COURT OF THE STATE OF UTAH

JURISDICTIONAL STATEMENT

The Appellant appeals from the opinion and judgment of the Supreme Court of Utah entered on December 29, 1981 affirming the conviction of the Appellant, and submits this Statement to show that the Supreme Court of the United States has jurisdiction of the appeal and that substantial questions are presented.

OPINION BELOW

The opinion and judgment of the Supreme Court of Utah was filed on December 29, 1981 and a copy is attached hereto as Appendix A. The judgments of the trial court and the District (appeals) court are appended as Appendix B and C, the order denying rehearing is appended as Appendix D

JURISDICTION

This is a criminal proceeding brought against the Appellant by the State of Utah under Utah Code Annotated, 1953 Sec. 41-6-158. It is brought to this court on Constitutional grounds. The date of the of the judgment of the Supreme Court of Utah is December 29, 1981, rehearing was denied on March 2, 1982 and Notice of Appeal was filed on March 23, 1982 in the Supreme Court of Utah. Jurisdiction to review decisions of the highest court of a state, by appeal, is confered on this court by 28 U.S.C. 1257 (2). The following cases sustain the jurisdiction of the Supreme Court to review this case on appeal: Williams v. Bruffy, 96 U.S. 176, 183; Largent v. Texas, 318 U.S. 418; Lawrence v. State Tax Commission, 286 U.S. 276, 283-3; Dahnke-Walker Mining Co. v. Bondurant

257 U.S. 282; Bantam Books, inc. v. Sullivan 372 U.S. 58, 61, n. 3.

QUESTIONS PRESENTED

Whether a state can lawfully prosecute its own citizens for an act which it does not prosecute nonresidents, under the provisions of the Equal Protection of the Law clause of the Constitution of the United States,(Fourteenth Amendment)?

Did the Appellant receive equal protection of the law in the courts of Utah?

Did the Appellant have a fair and impartial trial?

Did the Courts of Utah follow due process of law in depriving the Appellant of his property (fine)?

Is Utah Code Annotated, 1953, Sec. 41-6-158 repugnant to the Utah or Federal Constitutions in its administration?

Has any Federal or State Constitutional guarentees been violated?

STATUTES INVOLVED

Utah Code Annotated, 1953, Sec. 41-6-158 is appended as Appendix E.

STATEMENT

The Appellant was cited under U.C.A., 1953, 41-6-158 for driving a well maintained Mercedes Benz vehicle, registered in Utah, on the highways of Utah without a valid Utah Safety inspection sticker dispalyed. Utah is surrounded by states having no safety inspection sticker requirements including Idaho, Wyoming, Colorado, New Mexico, Arizona, Nevada, California, Washington, Montana and probably others. The citizens of these states are privileged to drive their vehicles upon the highways of Utah without being cited for that act. The Appellantn having studied the U. S. Constitution, Utah Constitution and a book on the Analysis and Interpretation of the U. S. Constitution contends that this discriminatory enforcement of the Utah statute is repugnant to both the Utah and Federal Constitutions with respect to equal protection of the laws, equal privileges and uniform operation of laws. The Appellant further contends that he did not have a fair and impartial trial in that the jury was not permitted to hear his arguments and were improperly instructed

and that he was deprived of his property without due process of law because the courts disregarded his arguments and citations.

The Appellant believes, and the record shows, that there was a conspiracy between the prosecuting attorneys and the courts to defeat any attack on the Utah statute in the following ways:

1. Sending the jury out of the court so that they could not hear the issues of law.
2. Instructing the jury "it is the duty of the court to instruct you on what the law is, and it is your duty to follow the law, no matter what you think it is or ought to be."
3. Giving the jury only the law which would cause them to convict and purposely omitting Article IV, Sec. 2, Amendments 4 and 14 of the U.S. Constitution and Article 1, Sections 14 and 24 of the Utah Constitution which are also the law and superior to case law which the courts relied on.
4. The District (appeals) court omitting all specific mention of the above law in its conclusions of law.
5. The Supreme Court of Utah disregarding Article IV, Sec. 2, and this Courts opinions in United States v. Raines 362 U.S. 17, 25 (1960) and Cf Hillsborough v. Cromwell, 326 U.S. 620 (1946) in its opinion and judgment.

The Appellant relies of the following to prove absence of guilt and false conviction in this case.

1. Article IV, Sec 2 U.S. Constitution.
"The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states." (first argued in trial court) disregarded.

2. Amendment 14, Par 2 U.S. Constitution
"No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any state deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws." (first argued in trial court) disregarded.

3. Amendment 4 U.S. Constitution
"The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated; and no warrants shall issue, but upon probable cause, supported by oath or affirmation, particularly describing the place to be searched, and the persons or things to be seized." (first argued in trial court) disregarded.

4. Constitution of Utah, Article 1, Sec. 14.
(same as Fourth Amendment, U.S. Constitution)

5. Constitution of Utah, Article 1, Sec. 24.
(Uniform operation of laws)
"All laws of a general nature shall have uniform operation."

6. Article VI, Par. 2 U.S. Constitution.
"This Constitution and the laws of the United States which shall be made in pursuance thereof; ... shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any state to the contrary notwithstanding."
(first argued in memorandum, Motion for Summary Reversal) disregarded.

7. Marbury v. Madison, 5 U.S. 13 (1803)
"All laws which are repugnant to the Constitution are null and void." (first argued in trial court) disregarded.

8. Cf., Hillsborough v. Cromwell, 326 U.S. 620 (1946)
"Persons "within its jurisdiction" are entitled to equal protection from a state. Largely because Article IV, Section 2, has from the beginning guarenteed the privileges and immunities of citizens in the several states, the Court has never construed the phrase in relation to natural persons." (first argued in Petition for Rehearing) disregarded, Petition denied.

9. United States v. Raines, 362 U.S. 17, 25 (1960)
"Certainly, when a state through its legislature commands a discriminatory result, that is state action condemned by the first section of the Fourteenth Amendment and the statute is void." (first argued in Reply Brief Dec. 17, 1981) disregarded in Utah Supreme Court decision.

10. Miranda v. State of Arizona, 348 U.S. 436, Key 73
"Where rights secured by Constitution are involved, there can be no rule-making or legislation which would abrogate them." (first argued in trial court) disregarded.

11. Richer v. East St. Louis & S. Ry Co., DC Mo. 20 F. 2d 220.
"Nor does it give to citizens of another state greater privileges in a particular state than those enjoyed by its own citizens." (first argued in trial court) disregarded.

12. Miller v. U.S. 230 F 486 at 489
"The claim and exercise of a constitutional right cannot be converted into a crime." (first argued in trial court, again in Docketing Statement) disregarded.

13. Paley v. Bank of America Nat. Trust and Savings Asso. (2d Dist) 159 Cal. App 2d 500; 324 P 2d 35.
"The presumption of constitutionality of a statute may be overcome by showing that the statute operates to deprive one of property without due process of law, or that any of the guarantees of the Constitution have been violated." (first cited in Motion for Summary Reversal) disregarded.

14. Horning v. District of Columbia, 254 U.S. 135, 138.
"The jury has the power to bring in a verdict in the teeth of both law and fact." (first argued in District (appeals) court) rejected in Conclusions of law #4.

15. United States v. Moylan, 417 F 2d 1002 at 1006.
" If the jury feels that the law under which the defendant is accused is unjust, or that exigent circumstances justified the actions of the accused, or for any reason which appeals to their logic or passion, the jury has the power to acquit, and the

court must abide by that decision."

16. United States v. Moylan 417 F. 2d 1002 at 1005
"Furthermore, the argument runs, the jury's power to acquit where the law may dictate otherwise is a fundamental necessity of a democratic system. Only in this way, it is said, can a man's actions be judged fairly by society speeking through the jury, or a law which is considered too harsh be mitigated."

17. Nelson v. State, 32 Tenn (2 Swan) 482 (Tenn 1852)
"On trial for murder, the court charged the jury, "That the jury are not only judges in the fact of the case, but they are judges of the law. The court is a witness to them as to what the law is. After the court has stated the law to them, then, if they believe it to be different, they can disregard the opinion of the court. If the jury err in favor of the defendant, their judgement is final, and cannot be reversed by the Supreme Court." Held, there was no error in so charging a jury in a criminal case."

18. 16 Am Jur 2d Sec. 155. As imposing obligatory duty.
" Since the Constitution is intended for the observance of the judiciary as well as the other departments of government and the judges are sworn to support its provisions, the Courts are not at liberty to overlook or disregard its commands, or countenance evasion thereof. It is their duty in authorized proceedings to give effect to the existing constitution and to obey all constitutional provisions, irrespective of their opinion as to the wisdom or desirability of such provisions, and irrespective of the consequences.
If the constitution prescribes one rule and the statute another and different rule, it is the duty of the courts to declare that the constitution, and not the statute, governs in cases before them for judgement." (first cited in Reply Brief Feb. 22, 1982) disregarded in Utah Supreme Court decision.

19. Justice Hugo Black in Columbia University's Charpentier Lectures (1968)
" The public welfare demands that constitutional cases must be decided according to the terms of our Constitution itself, and not according to judged' views of fairness, reasonableness, or justice. I have no fear if constitutional amendments properly adopted, but I do fear the rewriting of the Constitution by judges under the guise of interpretation." (first cited in Reply Brief Feb 22, 1982.) disregarded in Utah Supreme Court opinion.

20. Houston County v. Martin, 332 Al 511; 196 So. 13.
" Constitutions are not primarily to protect majorities, who are usually able to protect themselves, but rather to preserve and protect the rights of individuals and minorities against arbitrary actions of those in authority."

21. Terry v. Ohio, 392 U.S., at 39 (1967)
"There have been powerful hydrolic pressures throughout our history that bear heavily on the courts to water down constitutional guarentees and give the police the upper hand. That hydrolic pressure has probably never been greater than it is today. Yet if the individual is no longer to be sovereign, if the police can pick him up whenever they do not like the cut of his jib, if they can "seize" and "search" him in their discretion, we enter a new regime. The decision to enter it should be made only after a full debate by the people of this country.

The Appellant need not say on word in his behalf, the courts and the Constitutions have said it for him. The Appellant asks that this Court follow its own precedents by ruling that the Utah statute involved is not uniform in its operation as required by Article 1, Sec. 24 of the Utah Constitution, that it is state legislation which commands a discriminatory result which is condemned by the first section of the Fourteenth Amendment and that the statute is null and void, according to United States v. Raines (supra), that all persons "within Utah jurisdiction" are entitled to equal protection from the state because Article IV, Section 2 has from the beginning guaranteed equal protection of the laws to Utah citizens, according to Cf. Millsborough v. Cromwell (supra), that the jury is entitled to hear the law argued and bring in a verdict in the teeth of both law and fact and to speak for society instead of only for government, according to Horning v. District of Columbia and United States v. Moylan (supra), and that the Appellants claim and exercise of the right of equal protection of the law cannot be converted into a crime, according to Miller v. U.S. (supra)

THE QUESTIONS ARE SUBSTANTIAL

An honorable decision is needed from this Court to restore the citizens of Utah to first class citizens with all privileges and immunities of citizens in the several states and to the protection of their own state Constitution and the U. S. Constitution. And to establish the supremacy of Constitutions over statutes, and that courts are not at liberty to disregard constitutional commands in favor of statutes or their own opinions of fairness, reasonableness or justice and that these principles are required by due process of law, and to establish what a fair and impartial trial is. The Appellant believes that the questions presented are substantial and are of public importance.

Respectfully submitted,

Edward D. Christensen

Edward D. Christensen
Appellant Pro Se

IN THE SUPREME COURT OF THE STATE OF UTAH

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State of Utah,
Plaintiff and Respondent,

v.

Edward D. Christensen,
Defendant and Appellant.

No. 17791

F I L E D
December 29, 1981

Geoffrey J. Butler, Clerk

PER CURIAM:

This case originated in a justice of the peace court where defendant was convicted by a jury of the traffic offense of failing to display an inspection sticker on his car.[1] On appeal to the district court, he was again convicted.

He attacked the constitutionality of the statute which authorizes the appeal to this Court under Article VIII, §9 of the Utah Constitution.

Defendant appeals without the assistance of legal counsel and presents a very articulate argument reflecting considerable perception of the basic concepts of our state and federal constitutions. In so doing, defendant urges that the statute is discriminatory, in that it has the practical effect of punishing Utah residents, while immunizing sister state transient motorists from like penalty.

Defendant relies upon the Fourth and Fourteenth Amendments of the federal Constitution. He also points to the landmark decision of Marbury v. Madison[2] which stands for ultimate superiority of the Constitution over offending statutes.

Defendant is fair and candid in conceding that the State, his opponent here, insists on using the police power as a shield against his attack. His citation of Richter v. East St. Louis and S. Ry. Co.,[3] to the effect that residents and non-residents enjoy constitutional equality does not destroy the superiority of police power concepts.

Statutes like that involved here, uniformly have been held constitutional, with rare interference by the Fourth and Fourteenth Amendment. A case that arose in Illinois briefly and aptly states as follows:

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1. In violation of U.C.A., 1953, 41-6-158.
2. 5 U.S. 13 (1803).
3. 20 F.2d 220 (Mo. Dist. Ct. 1927).

APPENDIX A

IN THE JUSTICE'S COURT

PIUTA COUNTY PRECINCT, PIUTA COUNTY, STATE OF UTAH

STATE OF UTAH,	:	JUDGMENT
	:	
Plaintiff	:	
	:	
vs.	:	
	:	
EDWARD D. CHRISTENSEN	:	
	:	Case No. 94-30-250
Defendant.	:	

The Defendant Edward D. Christenson having been found guilty by a jury, and having waived time for pronouncement of sentence,

IT IS THEREFORE ORDERED that the Defendant Edward D. Christenson be and he HEREBY is sentenced to a term of six months in jail and is fined in the sum of $100.00.

IT IS FURTHER ORDERED thatthe jail sentence be suspended if the fine is paid within 10 days from the date hereof.

Dated this 2nd day of March, 1931.

S. E. Dalton

S. E. Dalton
Justice of the Peace

APPENDIX B

K. L. McIFF, DEPUTY
PIUTE COUNTY ATTORNEY
Attorneys for Plaintiff
151 North Main Street
Richfield, Utah 84701
Telephone: 896-5441

IN THE SIXTH JUDICIAL DISTRICT COURT OF PIUTE COUNTY

STATE OF UTAH

STATE OF UTAH, Plaintiff, vs. EDWARD D. CHRISTENSEN, Defendant.	:	RECITAL, FINDINGS, CONCLUSIONS AND JUDGMENT Case No. _____

This matter came before the Court at its regular law and motion day on Thursday, May 7, 1981; the State appearing through its attorney K. L. McIff, and the Defendant appearing pro se; the Court proceeded to hear the matters and enter the findings and ruling hereinafter set forth, to-wit:

RECITAL

1. The Defendant presented to the Court a motion to dismiss claiming that the Utah motor vehicle inspection law is unconstitutional, and that the Utah government exceeded its authority by making and enforcing an unconstitutional statute. The motion to dismiss was denied.

2. The Defendant presented a motion for change of venue. In light of other rulings, the motion became moot and, accordingly, was denied.

3. The Defendant moved the Court for a jury trial wherein he would be allowed to submit to the jury not only questions of fact, but also questions of law. The motion was denied.

4. The Court inquired as to a trial by jury on the factual issues and, after discussion between the Defendant and counsel for the State, it was represented to the Court that there were no factual disputes and a stiuplation of the

facts was then entered in the record.

5. The stipulated facts are that on or about December 14, 1980, at or near Marysvale, County of Piute, State of Utah, the Defendant Edward D. Christensen drove a motor vehicle upon a highway in the State of Utah without displaying a valid safety inspection sticker.

6. The parties requested that the Court make its findings and enter judgment based on the stipulated facts so that, if Defendant so elected, he could file an appeal to the Utah Supreme Court on the legal issues which he had raised.

FINDINGS OF FACT

The Defendant Edward D. Christensen, on or about December 14, 1980, at or near Marysvale, Piute County, State of Utah, drove a motor vehicle upon a highway in the State of Utah without displaying a valid safety inspection sticker.

CONCLUSIONS OF LAW

1. The Defendant is guilty of the offense of driving a motor vehicle upon a highway in the State of Utah without displaying a valid safety inspection sticker, contrary to §41-6-158 Utah Code Annotated 1953.

2. The statute in question does not violate the provisions of the Utah Constitution nor the Constitution of the United States.

3. The legislature of the State of Utah did not exceed its authority in adopting the requirement that motor vehicles be inspected periodically and display valid safety inspection stickers.

4. The Defendant is entitled to a trial by jury on all factual disputes, but is not entitled to have a jury rule on the constitutionality of the law in question or other issues of law which are properly the province of the Court.

5. The Defendant is entitled to appeal his conviction to the Supreme Court of the State of Utah, and to have such Court consider the rulings of this Court on the legal issues raised.

JUDGMENT

The Defendant Edward D. Christensen, having been found guilty by the instant Court upon stipulated facts, and having requested imposition of sentence,

IT IS THEREFORE ORDERED that the Defendant Edward D. Christensen be, and he hereby is, sentenced to a term of six months in jail and is fined in the sum of $100.00, the imposition of the jail sentence, however, being suspended, and the Defendant being placed on probation for a period of six months.

IT IS FURTHER ORDERED that execution of the instant sentence is suspended for a period of thirty days for the purpose of allowing Defendant to file an appeal should he so elect.

DATED this 15th day of May, 1981.

DISTRICT COURT JUDGE

AFFIDAVIT OF MAILING

I hereby certify that a full, true and correct copy of the above and foregoing RECITAL, FINDINGS, CONCLUSIONS AND JUDGMENT was placed in the United States mail at Richfield, Utah, with first-class postage thereon fully prepaid on the 20th day of May, 1981, addressed as follows:

Mr. Edward D. Christensen
387 North 300 East
Richfield, Utah 84701

SUPREME COURT OF UTAH
STATE OF UTAH
SALT LAKE CITY, UTAH

OFFICE OF THE CLERK

March 2, 1982

EDWARD D. CHRISTENSEN
387 NORTH 300 EAST
RICHFIELD, UTAH 84701

State of Utah,
Plaintiff and Respondent,
v.
Edward D. Christensen,
Defendant and Appellant.

No. 17791

This day petition for rehearing denied.

Geoffrey J. Butler, Clerk

cc: David L. Wilkinson
Robert N. Parrish

APPENDIX D

41-6-158 Periodic inspectiin required-display of inspection sticker required.-

(a) The department shall at least once each year require that every motor vehicle registered in this state or bearing temporary permits or Utah plates, except off-highway vehicles, be inspected and that an official certificate of inspection and approval be obtained for each such vehicle. Nothing in this subsection shall be construed to prevent any owner or lessee of a motor vehicle from voluntarily causing the official certificate of inspection number to coincide with the date of registration of such vehicle.

The inspection shall be made and the certificate obtained with respect to the mechanism, brakes and equiptment of every vehicle designated by the department under this subsection. The department may establish necessary rules and regulations for the administration and enforcement of this section and may designate any period or periods of time during wich an owner of any vehicle subject to this section shall display upon the vehicle a certificate of inspection and approval duly issued for the vehicle either upon the lower right-hand corner of the windshield thereof when required or upon the vehicle in such position as to be visible from the outside.

(b) The department may authorize the acceptance in this state of a certificate of inspection and approval issued in another state and may extend the time within which a certificate shall be obtained by the resident owner of a vehicle which was not in this state during the time an inspection was required.

(c) It shall be unlawful for any person to drive a motor vehicle registered in this state upon any street or highway without displaying the safety inspection sticker during the time designated by the department.

IN THE SUPREME COURT OF THE STATE OF UTAH

EDWARD D. CHRISTENSEN, Appellant, V. STATE OF UTAH, Appellee.	No. 17791

NOTICE OF APPEAL TO THE SUPREME COURT
OF THE UNITED STATES

Notice is hereby given that EDWARD D. CHRISTENSEN, the appellant above-named, hereby appeals to the Supreme Court of the United States from the final order of the Supreme Court of the State of Utah, affirming the judgement of conviction, entered herein on March 2, 1982.

This appeal is taken pursuant to 28 U.S.C. Sec. 1257 (2).

Edward D. Christensen
Appellant Pro Se

AFFIDAVIT OF MAILING

I hereby certify that I mailed a true and exact copy of the foregoing Notice of Appeal to the Supreme Court of the United States to the Attorney General of Utah, 236 State Capitol, Salt Lake City, Utah 84114 on March 23, 1982, and that the original was mailed to the Clerk of the Supreme Court of Utah on the same date.

Dated March 23, 1982.

Edward D. Christensen
Attorney Pro Se